

111TH CONGRESS  
2D SESSION

# S. 3543

To amend title XVIII of the Social Security Act to expand access to medication therapy management services under the Medicare prescription drug program.

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## IN THE SENATE OF THE UNITED STATES

JUNE 29, 2010

Mrs. HAGAN (for herself and Mr. FRANKEN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to expand access to medication therapy management services under the Medicare prescription drug program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medication Therapy  
5 Management Expanded Benefits Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Medications are important to the manage-  
9 ment of chronic diseases that require long-term or

1       lifelong therapy. Pharmacists are uniquely qualified  
2       as medication experts to work with patients to man-  
3       age their medications and chronic conditions and  
4       play a key role in helping patients take their medica-  
5       tions as prescribed.

6           (2) Nonadherence with medications is a signifi-  
7       cant problem. According to a report by the World  
8       Health Organization, in developed countries, only 50  
9       percent of patients with chronic diseases adhere to  
10      medication therapies. For example, in the United  
11      States only 51 percent of patients taking blood pres-  
12      sure medications and only 40 to 70 percent of pa-  
13      tients taking antidepressant medications adhere to  
14      prescribed therapies.

15          (3) Failure to take medications as prescribed  
16      costs over \$290,000,000,000 annually. The problem  
17      of nonadherence is particularly important for pa-  
18      tients with chronic diseases that require use of medi-  
19      cations. Poor adherence leads to unnecessary disease  
20      progression, reduced functional status, lower quality  
21      of life, and premature death.

22          (4) When patients adhere to or comply with  
23      prescribed medication therapy it is possible to reduce  
24      higher-cost medical attention, such as emergency de-  
25      partment visits and catastrophic care, and avoid the

1 preventable human costs that impact patients and  
2 the individuals who care for them.

3 (5) Studies have clearly demonstrated that com-  
4 munity-based medication therapy management serv-  
5 ices provided by pharmacists improve health care  
6 outcomes and reduce spending.

7 (6) The Asheville Project, a diabetes program  
8 designed for city employees in Asheville, North Caro-  
9 lina, that is delivered by community pharmacists, re-  
10 sulted over a 5-year period in a decrease in total di-  
11 rect medical costs ranging from \$1,622 to \$3,356  
12 per patient per year, a 50 percent decrease in the  
13 use of sick days, and an increase in productivity ac-  
14 counting for an estimated savings of \$18,000 annu-  
15 ally.

16 (7) Another project involving care provided by  
17 pharmacists to patients with high cholesterol in-  
18 creased compliance with medication to 90 percent  
19 from a national average of 40 percent.

20 (8) In North Carolina, the ChecKmeds NC pro-  
21 gram, which offers eligible seniors one-on-one medi-  
22 cation therapy management consultations with phar-  
23 macists, saved an estimated \$10,000,000 in  
24 healthcare costs and avoided numerous health prob-

1 lems in the first year of the program for the more  
 2 than 15,000 seniors receiving such consultations.

3 (9) Results similar to those found under such  
 4 projects and programs have been achieved in several  
 5 other demonstrations using community pharmacists.

6 (10) In recognition of the benefits of medication  
 7 therapy management, enhancement of the medica-  
 8 tion therapy management benefit the Medicare pre-  
 9 scription drug program under part D of title XVIII  
 10 of the Social Security Act was an important compo-  
 11 nent of the national health care reform agenda dur-  
 12 ing 2009 and 2010.

13 **SEC. 3. IMPROVEMENT IN PART D MEDICATION THERAPY**  
 14 **MANAGEMENT PROGRAMS.**

15 (a) INCREASED AVAILABILITY AND COMMUNITY  
 16 PHARMACY INVOLVEMENT IN THE PROVISION OF MEDI-  
 17 CATION THERAPY MANAGEMENT SERVICES.—

18 (1) INCREASED BENEFICIARY ACCESS TO MEDI-  
 19 CATION THERAPY MANAGEMENT SERVICES.—Section  
 20 1860D–4(c)(2) of the Social Security Act (42 U.S.C.  
 21 1395w–104(c)(2)), as amended by section 10328 of  
 22 the Patient Protection and Affordable Care Act  
 23 (Public Law 111–148), is amended—

24 (A) in subparagraph (A)—

(i) in clause (ii)(I), by inserting “or any chronic disease that accounts for high spending in the program under this title, including diabetes, hypertension, heart failure, dyslipidemia, respiratory disease (such as asthma, chronic obstructive pulmonary disease or chronic lung disorders), bone disease-arthritis (such as osteoporosis and osteoarthritis), rheumatoid arthritis, and mental health (such as depression, schizophrenia, or bipolar disorder)” before the semicolon at the end; and

(ii) by adding at the end the following new clause:

“(iii) IDENTIFICATION OF INDIVIDUALS WHO MAY BENEFIT FROM MEDICATION THERAPY MANAGEMENT.—The PDP sponsor shall, subject to the approval of the Secretary, establish a process for identifying individuals who—

“(I) are not targeted beneficiaries described in clause (ii);

“(II) are not otherwise offered medication therapy management services; and

1 “(III) a pharmacist or other  
 2 qualified provider determines may  
 3 benefit from medication therapy man-  
 4 agement services.

5 For purposes of this paragraph, any indi-  
 6 vidual identified under this clause shall be  
 7 treated as a targeted beneficiary described  
 8 in clause (ii).”;

9 (B) by redesignating—

10 (i) subparagraphs (E), (F), and (G),  
 11 as redesignated by paragraph (1) of such  
 12 section 10328, as subparagraphs (G), (H),  
 13 and (I), respectively; and

14 (ii) subparagraph (E), as added by  
 15 paragraph (2) of such section 10328, as  
 16 subparagraph (F); and

17 (C) by inserting after subparagraph (D)  
 18 the following new subparagraph:

19 “(E) MEDICATION REVIEWS FOR DUAL  
 20 ELIGIBLES AND ENROLLEES IN TRANSITION OF  
 21 CARE.—Without regard to whether an enrollee  
 22 is a targeted beneficiary described in subpara-  
 23 graph (A)(ii), the medication therapy manage-  
 24 ment program under this paragraph shall offer  
 25 the following:

“(i) In the case of an enrollee who is a full-benefit dual eligible individual (as defined in section 1935(c)(6)), a comprehensive medication review described in subparagraph (C)(i). The review under the preceding sentence shall be offered at the time of the initial enrollment of such individual in the prescription drug plan.

“(ii) In the case of any enrollee who is experiencing a transition in care (such as being discharged from a hospital or other institutional setting), a targeted medication review described in subparagraph (C)(ii) of any new medications that have been introduced to the enrollee’s therapy. The review under the preceding sentence shall be offered at the time of such transition.”.

(2) ACCESS TO MEDICATION MANAGEMENT THERAPY.—Section 1840D–4(c)(2) of such Act (42 U.S.C. 1395w–104(c)(2)) is further amended—

(A) by redesignating—

(i) subparagraphs (G), (H), and (I), as redesignated by paragraph (1)(B)(i), as

1 subparagraphs (H), (I), and (J), respec-  
 2 tively; and

3 (ii) subparagraph (F), as redesignated  
 4 by paragraph (1)(B)(ii), as subparagraph  
 5 (G); and

6 (B) by inserting after subparagraph (E),  
 7 as inserted by paragraph (1)(C), the following  
 8 new subparagraph:

9 “(F) ACCESS REQUIREMENTS.—In order  
 10 to assure that enrollees have the option of ob-  
 11 taining medication therapy management serv-  
 12 ices under this paragraph, a PDP sponsor shall  
 13 offer any willing pharmacy in its network and  
 14 any other qualified health care provider the op-  
 15 portunity to provide such services.”.

16 (3) APPROPRIATE REIMBURSEMENT FOR THE  
 17 PROVISION OF MEDICATION THERAPY MANAGEMENT  
 18 SERVICES.—Section 1860D–4(c)(2)(J) of such Act  
 19 (42 U.S.C. 1395w–104(c)(2)(I)), as redesignated by  
 20 paragraph (2), is amended—

21 (A) in the heading, by striking “CONSID-  
 22 ERATIONS IN PHARMACY FEES” and inserting  
 23 “REIMBURSEMENT”;

24 (B) by striking the first sentence and in-  
 25 serting the following: “The PDP sponsor shall

reimburse any willing pharmacy in its network and other qualified health care provider furnishing medication therapy management services under this paragraph based on the resources used and the time required to provide such services.”; and

(C) in the second sentence, by striking “any such management or dispensing fees” and inserting “any such reimbursement”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after the date of enactment of this Act.

(b) INCENTIVES BASED ON PERFORMANCE.—

(1) EVALUATION OF PERFORMANCE FOR PAYMENT INCENTIVES.—Section 1860D–4(c)(2) of the Social Security Act (42 U.S.C. 1395w–104(c)(2)), as amended by subsection (a), is further amended by adding at the end the following new subparagraph:

“(I) EVALUATION OF PERFORMANCE.—

“(i) DATA COLLECTION AND PERFORMANCE MEASURES.—

“(I) IN GENERAL.—For plan years beginning after the date of enactment of the Medication Therapy Management Expanded Benefits Act

1 of 2010, the Secretary shall establish  
2 measures and standards for data col-  
3 lection by PDP sponsors to evaluate  
4 the performance of pharmacies and  
5 other entities in furnishing medication  
6 therapy management services under  
7 this paragraph.

8 “(II) MEASURES.—Measures es-  
9 tablished under subclause (I) shall be  
10 designed to help assess and improve  
11 the overall quality of care, including a  
12 reduction in adverse medication reac-  
13 tions, improvements in adherence and  
14 persistence in chronic medication use,  
15 and a reduction in drug spending,  
16 where appropriate.

17 “(III) INCLUSION OF CERTAIN  
18 MEASURES WITH RESPECT TO PHAR-  
19 MACIST.—In the case of pharmacists  
20 who furnish medication therapy man-  
21 agement services, the measures estab-  
22 lished under subclause (I) shall in-  
23 clude measures developed by the  
24 Pharmacy Quality Alliance.

1                   “(IV) ENCOURAGING PARTICIPA-  
2                   TION OF ENTITIES THAT ACHIEVE  
3                   BETTER OUTCOMES.—The Secretary  
4                   shall compare the outcomes of medica-  
5                   tion therapy management services  
6                   based on the type of entity offering  
7                   such services and shall develop appro-  
8                   priate incentives to ensure broader  
9                   participation in the program offered  
10                  by the plan sponsor under this para-  
11                  graph of entities that achieve better  
12                  outcomes (as defined by the Sec-  
13                  retary) with respect to such services.

14                  “(ii) CONTINUAL DEVELOPMENT AND  
15                  INCORPORATION OF MEDICATION THERAPY  
16                  MANAGEMENT MEASURES IN BROADER  
17                  HEALTH CARE OUTCOMES MEASURES.—  
18                  The Secretary shall support the continual  
19                  development and refinement of perform-  
20                  ance measures established under clause  
21                  (i)(I), including the incorporation of medi-  
22                  cation use measures as part of broader  
23                  health care outcomes measures. The Sec-  
24                  retary shall work with State plans under  
25                  title XIX to incorporate similar perform-

1           ance-based measures into drug use review  
2           programs under section 1927(g).

3           “(iii) INCENTIVE PAYMENTS.—For  
4           plan years beginning on or after January  
5           1, 2011, pharmacies and other entities  
6           that furnish medication therapy manage-  
7           ment services under this paragraph shall  
8           be provided (in a form and manner speci-  
9           fied by the Secretary) additional incentive  
10          payments based on the performance of  
11          such pharmacies and entities in meeting  
12          the performance measures established  
13          under clause (i). Such payments shall be  
14          made from the Medicare Prescription Drug  
15          Account under section 1860D–16, except  
16          that such payments may be made from the  
17          Federal Hospital Insurance Trust Fund  
18          under section 1817 or the Federal Supple-  
19          mentary Medical Insurance Trust Fund  
20          under section 1841 if the Secretary deter-  
21          mines, based on data under this part and  
22          parts A and B, that such services have re-  
23          sulted in a reduction in expenditures under  
24          part A or part B, respectively.”.

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